AUSTRALIAN FOREST PRODUCTS ASSOCIATION

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Submission to the Senate Standing Committee on Environment and Communications Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment to the Senate Standing Committee on the Environment and Communications' *Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012* (the proposed Bill).

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

AFPA does not support the proposed Bill, as a matter of good public policy. In brief, the proposed Bill seeks to explicitly preclude delegating responsibility to States and Territories, in certain circumstances, for providing environmental approvals for proposed actions under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The proposed exclusion of the option of bilaterally agreed and accredited environmental approval processes is contrary to good environmental, economic and social policy, by not allowing flexibility for streamlining approval processes, by increasing potential duplication and bureaucracy and by raising compliance costs on projects and businesses across the economy.

National reform process

AFPA notes the reform agenda of the Australian Government to improve and streamline national environmental law, which is to be commended as an important national goal. In August 2011, the Minister for the Environment the Hon Tony Burke, announced a suite of reforms to reflect a new national approach 'to the protection of Australia's environment and biodiversity which will be better for the environment, better for business and mean better co-operation between government, industry and communities'.[1]

Importantly a number of critical reforms were announced in 2011, which included:

- a more proactive approach to protecting Australia's environment through more strategic assessments and regional environmental plans;
- new national standards for accrediting environmental impact assessments and approvals to better align Commonwealth and state systems; and
- building on the Council of Australian Governments (COAG) national reform agenda through new mechanisms such as national standards and guidelines to reduce duplication and streamline state laws with federal laws.

Progress on these reforms has progressed through the COAG process in 2012. The communique by the COAG Business Advisory Forum, in April 2012, reiterated the need for substantive and effective reforms to reduce the costs incurred by business in complying with unnecessary regulation. The Forum also acknowledged that while environmental protection is an ongoing priority for all governments, environmental regulation is often duplicative and cumbersome resulting in unnecessary delays and uncertainty, and slowing broad economic growth.

AFPA supports the reform agenda of the Australian Government to improve both environmental outcomes and remove unnecessary and costly 'green tape'. These goals are reflected in the commitment in the COAG process by the Commonwealth, States and Territories to work together to:

- develop bilateral arrangements for accreditation of state assessment and approval processes;
- deliver improved bilateral arrangements with states and territories to fast-track accreditation including through the development of standards; and
- work with jurisdictions to establish inter-jurisdictional taskforces to examine and facilitate removal of unnecessary duplication and reduce business costs for significant projects.

The proposed Bill to preclude such bilateral processes and approvals would be a retrograde step that is totally contrary to the national agenda.

[1] The Hon Tony Burke MP, 'Reforms better for the environment, better for business', media release, 24 August 2011.

Forest management and regulation

A good example of the role of strategic assessments and bilateral arrangements for achieving environmental outcomes are the Regional Forest Agreements (RFAs). The RFAs were put in place to:

a) resolve long standing native forest land use conflicts between state and federal governments through agreed 20 year commitments;
b) improve the national reserve system and conservation outcomes through the addition of significant forest areas to the comprehensive, adequate and representative (CAR) forest reserve system;
c) evaluate and accredit state based ecologically sustainable management systems in multiple-use areas available for wood production; and
d) provide for long term investment and certainty in the forest industry.

They were also underpinned by Comprehensive Regional Assessments (CRAs) that included significant investment in scientific studies and ecosystem mapping, that shaped the agreements and provided for environmental protection and biodiversity conservation measures, including the listing of priority threatened species and ecological communities within each RFA region and measures to protect them. The extensive nature of the assessments is reflected in the legislative definition of an RFA:

> "RFA" or *Regional Forest Agreement* means an agreement that is in force between the Commonwealth and a State in respect of a region or regions, being an agreement that satisfies all the following conditions:
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> (a) the agreement was entered into having regard to assessments of the following matters that are relevant to the region or regions:
> (i) environmental values, including old growth, wilderness, endangered species, national estate values and world heritage values;
> (ii) indigenous heritage values;
> (iii) economic values of forested areas and forest industries;
> (iv) social values (including community needs);
> (v) principles of ecologically sustainable management;
> (b) the agreement provides for a comprehensive, adequate and representative reserve system;
> (c) the agreement provides for the ecologically sustainable management and use of forested areas in the region or regions;
> (d) the agreement is expressed to be for the purpose of providing long-term stability of forests and forest industries;
> (e) the agreement is expressed to be a Regional Forest Agreement.

Given the comprehensive landscape approach to achieving environmental, biodiversity and socio-economic outcomes in RFA regions, forestry operations are recognised as having met or exceeded the requirements of the EPBC Act. The robust environmental standards of the RFAs are well documented[2], which represent a regional and bilateral based approach to

[2] Montreal Process Implementation Group for Australia (2008). *State of the Forests Report 2008*. Indicator 7.1a: Extent to which the legal framework supports the conservation and sustainable management of forests.

environmental assessment and approvals. The RFAs have essentially accredited State/Territory environmental management processes and ongoing monitoring and improvement including through the 5 yearly reviews. AFPA supports the renewal of the inter-governmental RFAs at the end of their 20 year timeframes, to provide for ongoing world best practice in environmental conservation, sustainable forestry operations and resource security for industry investment.

The proposed Amendment Bill

AFPA argues that the proposed *EPBC Amendment (Retaining Federal Approval Powers) Bill 2012* is a retrograde step that does not align with stated COAG outcomes, and does not recognise the integrated nature of Commonwealth and State environmental assessment and approval processes. Furthermore, it would have the direct effect of raising environmental compliance costs and uncertainty with adverse impacts on businesses and the national economy.

The proposed Bill would remove the ability for the Commonwealth to appropriately and responsibly recognise effective and complementary State/Territory based environmental assessment and approval processes. In doing so the Bill would reduce the flexibility of the current system and entrench an additional and often times unnecessary regulatory layer, thereby reducing the flexibility, efficiency and effectiveness of the current system.

In addition, it potentially further politicises environmental approval processes by requiring Commonwealth approval in all cases, regardless of whether the Commonwealth is already satisfied at the robustness of State/Territory assessment and approval processes.

AFPA therefore believes that the proposed amendment to the EPBC Act is simply bad policy, as it precludes cost-effective options for delivering multiple environmental, economic and social outcomes and is counter to the reform agenda for national environmental law.

Thank you for the opportunity to provide comments to the Committee's inquiry on the proposed Bill. In addition to this submission, AFPA is available to participate in any further opportunities to engage in the review and to clarify or expand on these issues.